

under section 2241 of this title) on or after 30 days after Oct. 20, 2008, see section 422(d) of Pub. L. 110-437, set out as a note under section 1301 of this title.

PART D—LABOR-MANAGEMENT RELATIONS

§ 1351. Application of chapter 71 of title 5 relating to Federal service labor-management relations; procedures for remedy of violations

(a) Labor-management rights

(1) In general

The rights, protections, and responsibilities established under sections 7102, 7106, 7111 through 7117, 7119 through 7122, and 7131 of title 5 shall apply to employing offices and to covered employees and representatives of those employees.

(2) Application

For purposes of the application under this section of the sections referred to in paragraph (1), the term “agency” shall be deemed to include an employing office.

(3) Definitions

For purposes of this section, the term “covered employee” does not include an employee of the Library of Congress, and the term “employing office” does not include the Library of Congress.

(b) Remedy

The remedy for a violation of subsection (a) shall be such remedy, including a remedy under section 7118(a)(7) of title 5, as would be appropriate if awarded by the Federal Labor Relations Authority to remedy a violation of any provision made applicable by subsection (a).

(c) Authorities and procedures for implementation and enforcement

(1) General authorities of Board; petitions

For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Labor Relations Authority under sections 7105, 7111, 7112, 7113, 7115, 7117, 7118, and 7122 of title 5 and of the President under section 7103(b) of title 5. For purposes of this section, any petition or other submission that, under chapter 71 of title 5, would be submitted to the Federal Labor Relations Authority shall, if brought under this section, be submitted to the Board. The Board shall refer any matter under this paragraph to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title. The Board may direct that the General Counsel carry out the Board’s investigative authorities under this paragraph.

(2) General authorities of the General Counsel; charges of unfair labor practice

For purposes of this section and except as otherwise provided in this section, the General Counsel shall exercise the authorities of the General Counsel of the Federal Labor Relations Authority under sections 7104 and 7118 of title 5. For purposes of this section, any charge or other submission that, under chapter 71 of title 5, would be submitted to the

General Counsel of the Federal Labor Relations Authority shall, if brought under this section, be submitted to the General Counsel. If any person charges an employing office or a labor organization with having engaged in or engaging in an unfair labor practice and makes such charge within 180 days of the occurrence of the alleged unfair labor practice, the General Counsel shall investigate the charge and may file a complaint with the Office. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title.

(3) Judicial review

Except for matters referred to in paragraphs (1) and (2) of section 7123(a) of title 5, the General Counsel or the respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (1) or (2) of this subsection, may file a petition for judicial review in the United States Court of Appeals for the Federal Circuit pursuant to section 1407 of this title.

(4) Exercise of impasses panel authority; requests

For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Service Impasses Panel under section 7119 of title 5. For purposes of this section, any request that, under chapter 71 of title 5, would be presented to the Federal Service Impasses Panel shall, if made under this section, be presented to the Board. At the request of the Board, the Executive Director shall appoint a mediator or mediators to perform the functions of the Federal Service Impasses Panel under section 7119 of title 5.

(d) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

Except as provided in subsection (e), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Federal Labor Relations Authority to implement the statutory provisions referred to in subsection (a) except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

(B) as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

(e) Specific regulations regarding application to certain offices of Congress

(1) Regulations required

The Board shall issue regulations pursuant to section 1384 of this title on the manner and extent to which the requirements and exemp-

tions of chapter 71 of title 5 should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5 and of this chapter, and shall be the same as substantive regulations issued by the Federal Labor Relations Authority under chapter 71 of title 5, except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) that the Board shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Board determines that such exclusion is required because of—

- (i) a conflict of interest or appearance of a conflict of interest; or
- (ii) Congress' constitutional responsibilities.

(2) Offices referred to

The offices referred to in paragraph (1) include—

(A) the personal office of any Member of the House of Representatives or of any Senator;

(B) a standing, select, special, permanent, temporary, or other committee of the Senate or House of Representatives, or a joint committee of Congress;

(C) the Office of the Vice President (as President of the Senate), the Office of the President pro tempore of the Senate, the Office of the Majority Leader of the Senate, the Office of the Minority Leader of the Senate, the Office of the Majority Whip of the Senate, the Office of the Minority Whip of the Senate, the Conference of the Majority of the Senate, the Conference of the Minority of the Senate, the Office of the Secretary of the Conference of the Majority of the Senate, the Office of the Secretary of the Conference of the Minority of the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Majority Policy Committee of the Senate, the Minority Policy Committee of the Senate, and the following offices within the Office of the Secretary of the Senate: Offices of the Parliamentarian, Bill Clerk, Legislative Clerk, Journal Clerk, Executive Clerk, Enrolling Clerk, Official Reporters of Debate, Daily Digest, Printing Services, Captioning Services, and Senate Chief Counsel for Employment;

(D) the Office of the Speaker of the House of Representatives, the Office of the Majority Leader of the House of Representatives, the Office of the Minority Leader of the House of Representatives, the Offices of the Chief Deputy Majority Whips, the Offices of the Chief Deputy Minority Whips and the following offices within the Office of the Clerk of the House of Representatives: Offices of Legislative Operations, Official Re-

porters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Council of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Council of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives, and the Office of the Law Revision Counsel;

(F) the offices of any caucus or party organization;

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Congressional Workplace Rights; and

(H) such other offices that perform comparable functions which are identified under regulations of the Board.

(f) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) shall be effective on October 1, 1996.

(2) Certain offices

With respect to the offices listed in subsection (e)(2), to the covered employees of such offices, and to representatives of such employees, subsections (a) and (b) shall be effective on the effective date of regulations under subsection (e).

(Pub. L. 104-1, title II, § 220, Jan. 23, 1995, 109 Stat. 19; Pub. L. 115-141, div. I, title I, § 153(a)(1)(C), Mar. 23, 2018, 132 Stat. 785; Pub. L. 115-397, title III, § 308(b)(10), Dec. 21, 2018, 132 Stat. 5326.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(1), was in the original “this Act”, meaning Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 3, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115-141, § 153(a)(1)(C)(i), substituted “Application” for “Definition” in heading. Subsec. (a)(3). Pub. L. 115-141, § 153(a)(1)(C)(ii), added par. (3).

Subsec. (e)(2)(G). Pub. L. 115-397 substituted “Office of Congressional Workplace Rights” for “Office of Compliance”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-397 effective Dec. 21, 2018, and any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date to be considered to refer and apply to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115-397, set out as a note under section 1381 of this title.

SENATE DEMOCRATIC LEADERSHIP OFFICES FUNDING AND AUTHORITIES

Reference to the Office of the Secretary of the majority or minority conference of the Senate, as applicable,

that represents the Democratic party deemed to be a reference to the Office of the Assistant Leader of the applicable conference, under certain conditions during the 117th Congress, see section 104 of div. I of Pub. L. 116-260, set out as a note under section 6154 of this title.

PART E—GENERAL

§ 1361. Generally applicable remedies and limitations

(a) Attorney's fees

If a covered employee, with respect to any claim under this chapter, or a qualified person with a disability, with respect to any claim under section 1331 of this title, is a prevailing party in any proceeding under section 1405, 1406, 1407, or 1408 of this title, the hearing officer, Board, or court, as the case may be, may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 2000e-5(k) of title 42.

(b) Interest

In any proceeding under section 1405, 1406, 1407, or 1408 of this title, the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 2000e-16(d) of title 42.

(c) Civil penalties and punitive damages

No civil penalty or punitive damages may be awarded with respect to any claim under this chapter.

(d) Exclusive procedure

(1) In general

Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this chapter except as provided in this chapter.

(2) Veterans

A covered employee under section 1316 of this title may also utilize any provisions of chapter 43 of title 38 that are applicable to that employee.

(e) Construction

(1) Definitions and exemptions

Except where inconsistent with definitions and exemptions provided in this chapter, the definitions and exemptions in the laws made applicable by this chapter shall apply under this chapter.

(2) Size limitations

Notwithstanding paragraph (1), provisions in the laws made applicable under this chapter (other than the Worker Adjustment and Retraining Notification Act [29 U.S.C. 2101 et seq.]) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this chapter.

(3) Executive branch enforcement

This chapter shall not be construed to authorize enforcement by the executive branch of this chapter.

(Pub. L. 104-1, title II, §225, Jan. 23, 1995, 109 Stat. 22; Pub. L. 115-397, title I, §101(d), Dec. 21, 2018, 132 Stat. 5301.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), (d)(1), and (e), was in the original "this Act", meaning Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 3, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

The Worker Adjustment and Retraining Notification Act, referred to in subsec. (e)(2), is Pub. L. 100-379, Aug. 4, 1988, 102 Stat. 890, which is classified generally to chapter 23 (§2101 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 29 and Tables.

AMENDMENTS

2018—Subsecs. (e), (f). Pub. L. 115-397 redesignated subsec. (f) as (e) and struck out former subsec. (e). Prior to amendment, text of subsec. (e) read as follows: "Only a covered employee who has undertaken and completed the procedures described in sections 1402 and 1403 of this title may be granted a remedy under part A of this subchapter."

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115-397, set out as a note under section 1301 of this title.

§ 1362. Notices

(a) In general

Every employing office shall post and keep posted (in conspicuous places upon its premises where notices to covered employees are customarily posted) a notice provided by the Office that—

(1) describes the rights, protections, and procedures applicable to covered employees of the employing office under this chapter, concerning violations described in subsection (b); and

(2) includes contact information for the Office.

(b) Violations

A violation described in this subsection is—

(1) discrimination prohibited by section 1311(a) of this title (including, in accordance with section 1302(c) of this title, discrimination prohibited by title II of the Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. 2000ff et seq.)) or 1316(a) of this title; and

(2) a violation of section 1317 of this title that is related to discrimination described in paragraph (1).

(Pub. L. 104-1, title II, §226, as added Pub. L. 115-397, title III, §304(a), Dec. 21, 2018, 132 Stat. 5322.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.